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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,925	08/20/2003	Hiroyuki Yamada	056205.48558C1	4766
23911 7590 05/29/2008 CROWELL & MORING LLP INTELLECTUAL PROPERTY GROUP P.O. BOX 14300 WASHINGTON, DC 20044-4300				
EXAMINER				
MILLER, CARL STUART				
ART UNIT		PAPER NUMBER		
3747				
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05/29/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/643,925

Applicant(s)

YAMADA ET AL.

Examiner

Carl S. Miller

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 January 2008 and 28 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 26, 28-31 and 35-52 is/are pending in the application.
- 4a) Of the above claim(s) 31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 26, 28-30 and 35-52 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Claim 31 remains withdrawn from consideration as drawn to non-elected species of the invention. The applicant should note that Claim 31 in particular does not appear to read on the elected species of Figure 11.

Claim 38 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In particular, the claim contains the word "overflow" in parentheses thereby making this an ambiguous limitation.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 26, 28-30, 36-38 and 43-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kraemer in view of Wilber.

Kraemer, as noted in earlier office actions, teaches a fuel injection pump with all of the applicant's claimed features except the second spring biasing the holder in the outward position and thereby causing the inlet valve to be held open. While this feature is not taught by Kraemer, the mechanism is held open by some manner since the activation of the solenoid appears to retract the holder, thereby allowing the check valve to close.

Wilber (UK('941)) teaches a check valve that includes a ball valve biased by a first spring and a larger spring that biases a holder in a direction to hold the check valve

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open. The solenoid is used to overcome the bias of the second spring and allow the check valve to close.

It would have been obvious to modify Kraemer by constructing the check valve as taught by Wilber because the latter valve was also used as an injection timing device by allowing fluid to be released from a timing chamber as opposed to the pumping chamber

Claims 35 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kraemer and Wilber as applied to claim 11 above, and further in view of Yasuhara.

Yasuhara teaches the use of an injection pump inlet solenoid valve that does not set the beginning of injection, but instead closes at a fixed time. This is possible because the timing is set by rotation of the pump cam mechanism. Furthermore, the inlet solenoid of the device is mounted on the side of the pumping plunger.

It would have been obvious to modify Kraemer by using the inlet solenoid to set only the end of injection since it was known in the art to use other means to set the beginning of injection even in a system having a solenoid-controlled inlet. Yasuhara's location for the solenoid shaft was well known in the art and the examiner cannot see how changing the orientation of the Kraemer inlet valve would have had any effect upon the operation of the device. Furthermore, the applicant does not really identify (in his remarks) any improvement resulting from his location.

Claim 40 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kraemer and Wilber as applied to claim 36 above, and further in view of Ewing.

Ewing teaches the use of a valve having a ball and seat made of stainless steel with a Rockwell hardness greater than or equal to 45 on a C scale, thereby making this type of metal an obvious choice for the valve material used in Kraemer.

Claims 41-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kraemer, Wilber and Ewing as applied to claim 40 above, and further in view of Mitake.

Mitake teaches the use of SUS440C stainless steel as part of a high-pressure pumping system wherein the element made needs to be particularly hard. Since this type of stainless steel was known to be useful in this environment it would have been obvious to use it for the stainless steel needed in Kraemer.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Applicant's arguments filed 8/22/07 have been fully reconsidered, but they are still not persuasive. In particular, the examiner has reviewed applicant's comments regarding the Kraemer reference and does not find them convincing. While the examiner is willing to admit that the reference includes some inconsistencies, it is not critical whether or not the pin is spring-loaded to push the pin forward or backward. One of ordinary skill in the art would realize that either way the solenoid can be used to open and close the valve. While the examiner still believes that the tappet of the Kraemer device is the equivalent of applicant's large spring in that it acts to hold the inlet valve open by forcing the holder element against the smaller spring, even if the device works in the other direction the secondary reference to Wilbur clearly teaches the use of a

larger spring to hold the ball valve open and an armature used to retract the rod and allow the ball to close.

With regard to Claim 35 and 39, the Yasuhara reference has again been applied against these claims and clearly teaches an inlet solenoid and piston oriented as claimed and a fixed timing signal.

Applicant's arguments filed 1/22/08 have been fully considered but they are not persuasive. In particular, the applicant's only additional argument is that the Wilber reference does not teach a high-pressure pump feeding a common rail system. It should be noted initially that the applicant does not claim a common rail system, but merely a high pressure pumping system. Both Kraemer and Wilber teach high-pressure pumping systems. More importantly, the Wilber check valve does teach the use of the valve taught to control injection timing via fluid control. Wilber has been applied to teach the use of a particular valve structure in a high-pressure fuel pump. In short, the applicant has simply used known elements for their established functions to produce predictable results.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carl S. Miller whose telephone number is 571-272-4849. The examiner can normally be reached on MTWTHF.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steve Cronin, can be reached on 571-272-4536. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Carl S. Miller/

Primary Examiner, Art Unit 3747

